

REMARKS

Applicants thank the Examiner for the telephone interview held on September 30, 2009 to discuss the outstanding rejections in the Office Action. The amendments and comments herein are the same as those that were presented and discussed during the interview.

Claims 13, 15, 17, 18, 26, 29, 30, 33, 35, 43, 49-52, 55-60, 62, 63, 66-69 and 74-77 appear in this application for the Examiner's review and consideration. Claims 25 and 70-73 have been cancelled. Claims 13, 49, 51 and 52 have been amended to recite specific embodiments and are supported by the specification and claims as originally filed. Claims 26 and 35 have been amended to correct dependencies, and claim 59 has been amended to be consistent with claims 13 and 29. Claim 13 and new claim 74 and their dependent claims are supported, for example, by compound S36, page 8, lines 1-6, page 9, line 16 to page 10, line 4, page 11, lines 11-16, page 66, line 3, paragraph [0154], page 71, lines 11-16 and line 18 to page 72, line 3; Figure 12, and Figure 13. Claim 29 and its dependent claims are supported, for example, by compound S36, page 8, lines 1-6, page 9, line 16 to page 10, line 4, page 11, lines 11-16, page 66, line 3, paragraph [0154], page 71, lines 11-16 and line 18 to page 72, line 3; Figure 12, and Figure 13. Claim 59 and its dependent claims are supported, for example, by compound S36, page 8, lines 1-6, page 9, line 16 to page 10, line 4, page 11, lines 11-16, page 66, line 3, paragraph [0154], page 71, lines 11-16 and line 18 to page 72, line 3; Figure 12, and Figure 13. Applicants respectfully submit that no new matter has been introduced by any of these amendments, so that they should be entered at this time.

Allowable Subject Matter

The allowance of claims 59, 60, 62, 63, 66-69, 72 and 73 is noted with appreciation. Claim 26 has been objected to as being dependent upon a rejected base claim but was indicated allowable if rewritten in independent form including all of the recitations of the base claim and any intervening claim. Claim 74 incorporates the recitations of claim 26 and claim 13 from which claim 26 depends. Therefore, claim 74 is allowable. Claims 75-77 which have been added to cover preferred embodiments, depend from claim 74 are also allowable. As four claims were canceled and as claim 26 was already found to contain allowable subject matter, the addition of these four claims does not raise any new issues that would require a further search of

the art, and they should be entered at this time.

Claim Rejections – 35 USC § 103

Claims 13, 15, 17, 18, 25, 30, 33, 35, 43, 49-52, 55-58, 70 and 71 were rejected under 35 U.S. C. §103 as allegedly being obvious over Bondilell et al. (WO 93/00095), in view of Kaneko et al. (US 5,416,066). The Examiner states that Bondilell et al. teach a class of compounds useful for treating stroke, transient ischemia attacks and myocardial infarctions and that, although Bondilell does not teach the elected species, such species is disclosed by Kaneko. The Examiner asserts that “it would be obvious to one of ordinary skill in the art, when practicing the method disclosed in the primary reference to use compounds already known which fall within the disclosed genus, such as the compound taught in the secondary reference. Where the compound of the secondary reference is structurally similar to embodiments disclosed in the primary reference and falls within the genus of compounds disclosed to have a specific activity, the compound would reasonably be expected to have similar activity.”

In response, Applicants respectfully disagree. First, as discussed in the September 30, 2009 interview, claim 29 is of the same scope as claim 59 with respect to the recited genus, however claim 59 was found to be free of the art and allowed. Thus, at least claim 29 is also allowable. As noted in the Interview Summary dated October 6, 2009, the Examiner stated his agreement with this point by acknowledging that “it would appear Applicants are correct.” Therefore, at least claims 29 and claims 30, 33, 35, 43, 49-52 and 55-58 which depend therefrom are also allowable. In addition, claim 13 has been amended and is now of the same scope as claims 29 and 59 with respect to the claimed genus. Therefore, claim 13 is also allowable, as are claims 17 and 18 which depend from claim 13. Finally, claims 25, 70 and 71 have been cancelled thereby rendering moot the Examiner’s rejection with respect to these claims.

In view of the foregoing, the rejection of claims 13, 15, 17, 18, 25, 30, 33, 35, 43, 49-52, 55-58, 70 and 71 under 35 U.S. C. §103 as being obvious over Bondilell et al. in view of Kaneko et al. has been overcome, and Applicants respectfully request its withdrawal.

Conclusion

For at least the reasons set forth above, Applicants respectfully submit that this application is in condition for allowance. Favorable consideration and prompt allowance of the claims are earnestly requested. Should the Examiner have any questions that would facilitate further prosecution or allowance of this application, the Examiner is invited to contact the Applicants' representative designated below. Please charge any necessary fees to deposit account 08-0219.

Respectfully submitted,

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